

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2020-247-A

IN RE:)	
)	
Public Service Commission Review of South)	COMMENTS OF THE SOUTH
Carolina Code of Regulations Chapter 103)	CAROLINA CABLE TELEVISION
Pursuant to S.C. Code Ann. Section 1-23-120(J))	ASSOCIATION
_____)	

Pursuant to the Public Service Commission of South Carolina’s (“Commission”) April 27, 2021 Sixth Amended Notice of Workshops, the South Carolina Cable Television Association (“SCCTA”) hereby provides notice that it intends to participate in the May 21, 2021 Workshop on S.C. Code Ann. Regs. 103-600, *et seq.* and submits the following comments on S.C. Code Ann. Regs. 103-690 and 103-690.1, relating to eligible telecommunications carrier (“ETC”) designation and annual reporting, respectively.

INTRODUCTION

SCCTA is a nonprofit corporation, organized and existing pursuant to the laws of the State of South Carolina. SCCTA represents the common interests of the cable industry in South Carolina and the interests of its membership, which is comprised of South Carolina’s major cable companies, including Charter Communications, Comcast Cable Communications, and Atlantic Broadband. Association members provide video, voice, and/or broadband services to over a million households across the state.

Each SCCTA member has one or more regulated competitive local exchange carrier (“CLEC”) affiliates providing voice telephony services in South Carolina.¹ Thus, SCCTA’s interests and that of its individual members will be directly impacted by revisions to regulations governing telecommunications utilities flowing from this proceeding. Notably, state regulations governing eligible telecommunications carrier (“ETC”) designation and annual reporting requirements are of increasing importance to SCCTA members as they seek to expand broadband services to the unserved in South Carolina through participation in federal programs designed to subsidize the high cost of deploying broadband in rural areas.

At the end of 2017, the Federal Communications Commission (“FCC”) estimated that 21.3 million Americans lacked access to broadband services meeting minimum FCC standards. To bridge this “digital divide,” the FCC has made available in recent years substantial resources to catalyze broadband service buildout to unserved areas across the country.² The urgency of these efforts, however, was magnified by the coronavirus pandemic that brought the “digital divide” into clear focus after millions of Americans were made dependent on broadband internet services to access work, school, and healthcare and governmental services.

¹ Atlantic Broadband Enterprise, LLC is a CLEC affiliate of member Atlantic Broadband; Charter Fiberlink SC CCO, LLC and Time Warner Cable Information Services (South Carolina), LLC are CLEC affiliates of member Charter Communications; and Comcast Phone of South Carolina, Inc. is a CLEC and indirect subsidiary of member Comcast Cable Communications.

² For example, in 2018 the FCC conducted an auction (“Auction 903”) to allocate Connect America Fund Phase II (“CAF Phase II”) support to certain eligible areas across the United States. Auction 903 ran from July 24, 2018 to August 21, 2018. One hundred three bidders won \$1.49 billion over 10 years to provide fixed broadband and voice services to over 700,000 locations in 45 states. Building on its CAF Phase II success, in 2019, the FCC launched the Rural Digital Opportunity Fund (“RDOF”) which made available \$20.4 billion in federal funds to bring high speed fixed broadband service to rural homes and small businesses that lack it through the RDOF Phase I auction (“Auction 904”). The RDOF Phase II auction is expected to make available billions more in federal funding to buildout broadband network to areas not covered by RDOF Phase I.

For broadband services providers, like SCCTA members, to participate in many USF programs, and access critical federal funds that make it possible to build out high-quality broadband services to low-density unserved and partially served areas, current FCC rules require that they first be designated ETCs by respective state commissions. State ETC regulations therefore play a pivotal role in facilitating (or hindering) the rapid deployment of USF-supported voice and broadband services. Indeed, for providers that operate in multiple states, like SCCTA members, ensuring that state ETC regulations are largely consistent with current FCC ETC regulations is critical to reducing the administrative burden of being subject to a patchwork of regulations from many different regulatory regimes.

Therefore, SCCTA respectfully offers the following comments believing that they will encourage participation in USF-supported programs designed to reduce the “digital divide,” promote regulatory efficiency, eliminate certain requirements that no longer exist or are otherwise no longer necessary, and reduce regulatory burdens by taking advantage of advances in reporting systems and technologies.

COMMENTS

Before listing SCCTA’s comments, some background is in order that will be helpful to the Commission in understanding SCCTA’s position on certain ETC regulations contained under Rules 103-690 and 103-690.1. ETC status is a creature of federal law. *See* 47 U.S.C. § 214(e)(1) (providing that a “common carrier designated as an [ETC] ... shall be eligible to receive universal service support”). States, however, are primarily responsible for performing ETC designations. 47 U.S.C. § 214(e)(2).

Current state ETC designation requirements under Rule 103-690 were added on May 23, 2008 in response to the Federal Communication Commission’s (“FCC”) adoption of certain new

requirements for ETC designation in *Federal-State Joint Board on Universal Service, Report and Order*, CC Docket No. 96-45, 20 FCC Rcd 6371 (rel. Mar. 17, 2005) (*2005 FCC ETC Order*).³ Consequently, Rules 103-690 and 103-690.1 largely mirror the former versions of 47 C.F.R. §§ 54.202 and 54.209 adopted in the *2005 FCC ETC Order*, respectively.

Technologies and circumstances have changed, however, since Rules 103-690 and 103-690.1 were added to the body of Article 6 approximately 13 years ago, and FCC regulations governing ETC designation and reporting requirements have evolved to match these new realities. The comments offered by SCCTA are respectfully provided in an effort to align state ETC regulations more closely with current FCC regulations, technologies, and circumstances applicable to ETCs. With that said, SCCTA offers the following comments to certain regulatory requirements under Rules 103-690 and 103-690.1:

REGULATION CITE	COMMENT
R. 103-690.B.5 <i>et seq.</i>	Reference is made throughout state ETC regulations to “Link Up Service;” however, the FCC eliminated this service on non-Tribal lands for all ETCs. Thus, all reference to the Link Up Service should be removed from state ETC regulations.
R. 103-690.C.(a)(1)(B)	The FCC has waived the filing of service improvement plans by ETCs because advances in technology provide the FCC with more specific measures to track deployment of supported services, information that is available to the Commission through review of ETCs’ Form 481 and the HUBB Portal run by the Universal Service Administrative Company (“USAC”). ⁴ Thus, the similar improvement plan requirement under state ETC regulations is likewise no longer

³ Rule 103-690 was added by State Register Vol. 32, Issue 5, May 23, 2008. The synopsis in the state register for Rule 103-690 identifies Commission Order No. 2006-71 as triggering a rulemaking proceeding leading to the adoption of requirements and standards to be used for ETC designation in this state. In Commission Order No. 2006-71, ORS filed a petition to hold an ETC application in abeyance, noting that the *2005 FCC ETC Order* set forth new ETC requirements, and requesting a rulemaking proceeding “to develop a single set of eligibility standards for ETC designation” as recommended by the FCC. (at 3). Current ETC regulations are largely a product of this 2008 rulemaking proceeding.

⁴ *Rural Digital Opportunity Fund*, Report and Order, 35 FCC Rcd 686 (2020) at ¶ 56; *Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949 (2016) at ¶¶ 170 – 172.

	necessary. The Commission has recognized this, granting ETC applicants' requests for waiver of this requirement. ⁵
R. 103-690.C.(a)(5)	As discussed above, the Commission's ETC regulations generally track corresponding federal rules and equal access is no longer a requirement under the FCC's universal service rules (previously existing under 47 C.F.R. § 54.202(a)(5)). Also, in 2018, the FCC forbore from requiring CLECs to provide equal access and toll dialing parity. ⁶ Given these changes in FCC requirements, the Commission should likewise update its rules and waive the equal access requirement.
R. 103-690.C.(b)	The FCC simplified the language under the public interest requirement. State ETC regulations should be similarly revised. Further, federal universal service support often is not awarded with regard to wire centers. For example, in its pending Rural Digital Opportunity Fund Program, the FCC requested bids and awarded support on a census block basis. Winning bidders are required to use support only in the areas for which such support is intended (designated census blocks). The Commission granted waivers for CAF Phase II award recipients to allow federal support to match state ETC designation. Rather than require continual requests for waiver, the Commission's rules should ensure that the geographic area for ETC designation matches the geographic area(s) wherein carriers receive universal service support, whether at a wire center level, census block level, partial census block, or otherwise.
R. 103-690.1.B.(b)(1)	For the reasons noted above that the Commission should remove the service improvement plan requirement under R. 103-690, it should likewise remove the related annual progress report requirement on the service improvement plan.
R. 103-690.1.B.(b)(2)	The FCC no longer requires annual outage reports by ETCs because this data is collected from all facilities-based providers in the Network Outage Reporting System. ⁷ Further, this requirement is duplicative of R. 103-614. Thus, this state ETC requirement should be removed.

⁵ *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced; FCC Form 683 Due January 29, 2021*, Public Notice, DA 20-1422, 35 FCC Rcd 13888, at n. 71 (citing *WCB Reminds Connect America Fund Phase II Auction Applicants of the Process for Obtaining a Federal Designation as an Eligible Telecommunications Carrier*, Public Notice, WC Docket No. 09-197, 10-90, 33 FCC Rcd 6696, at 4).

⁶ *See Nationwide Number Portability; Numbering Policies for Modern Communications*, Report and Order, WC Docket Nos. 17-244, 13-97, 33 FCC Rcd 7153 (2018).

⁷ *Connect America Fund*, Report and Order, 32 FCC Rcd 5944, at ¶¶ 4 – 5.

R. 103-690.1.B.(b)(3)	The FCC eliminated the unfulfilled service request reporting requirement for ETCs. ⁸ The FCC used the requirement to track deployment of supported services, but technologies have evolved to permit the FCC to monitor exact locations where an ETC built-out network the prior year. Thus, this state ETC requirement should be likewise removed.
R. 103.690.1.B.(b)(8)	This state ETC requirement specifically refers to a conditional FCC requirement that no longer exists. It should be removed.
R. 103-690.1.E.(a)(4)	<p>Since October 2019, Lifeline subscriber eligibility and annual recertification in South Carolina have been performed by USAC's National Verifier. The current FCC rule states as follows:</p> <p style="padding-left: 40px;">47 C.F.R § 54.410 (f) Annual eligibility re-certification process.</p> <p style="padding-left: 40px;">(1) All eligible telecommunications carriers must annually re-certify all subscribers, except for subscribers in states where the National Verifier, state Lifeline administrator, or other state agency is responsible for the annual re-certification of subscribers' Lifeline eligibility.</p> <p>Because the National Verifier launched in South Carolina in October 2019, ETCs no longer have the obligation to annually recertify all subscribers in this state. Therefore, this requirement should be removed from the South Carolina rules.</p>

CONCLUSION

This state's ETC regulations largely mirrored FCC regulations at the time of their addition to Chapter 103, Article 6 approximately 13 years ago. The FCC has since revised its ETC regulations to adapt to changing technologies and circumstances that rendered certain of the former requirements unnecessary. SCCTA respectfully requests that the Commission modify its ETC regulations to align with current FCC regulations, technologies, and circumstances affecting ETCs.

⁸ See note 7 *supra* at ¶¶ 6 – 7.

Thus, SCCTA respectfully requests that the Commission accept its comments in this proceeding and looks forward to participating in the telecommunication utilities workshop.

Respectfully submitted,

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